



BC Association of  
Specialized Victim  
Assistance &  
Counselling Programs



B.C./Yukon  
Society of Transition  
Houses



BC Institute  
Against Family Violence

## CRITICAL ELEMENTS OF AN EFFECTIVE RESPONSE TO VIOLENCE AGAINST WOMEN

### *BRIEFING DOCUMENT*

#### **ISSUE: Effective Enforcement of Protection Orders**

An effective, coordinated approach to risk assessment, safety planning and the use and enforcement of justice and MCFD protection orders in domestic violence cases is critical for the safety of women and their children and accountability of offenders.

#### **KEY POINTS**

- Protection orders are court orders containing a condition to provide safety and security to one or more named people. These include *Criminal Code* orders such as s.810 recognizances (peace bonds), probation and bail orders, civil restraining orders under the *Family Relations Act* or the *Child, Family and Community Service Act (CFCSA)* and protective intervention orders under the *CFCSA*.
- In domestic violence cases, a high degree of risk is associated with actual or potential breaches of court-ordered protective conditions such as no-contact. Any reported breach must be dealt with as a high-risk situation for victims and others associated with the victim, with an immediate enforcement response required because of the significant risk of escalating violence. The tragic deaths of Sherry Heron and her mother in Mission Memorial Hospital in 2004 illustrate this risk in stark terms. The lack of escalating consequences to address the escalating violence exacerbates this risk.
- Research indicates that in domestic violence cases, the rate of non-compliance with protective conditions is high. Vigorous enforcement of protection orders has been shown to enhance victim safety. (EKOS 2000, Russell 2002, Varcoe et al 2000). More data is needed on the number of protection orders issued in domestic violence cases and their efficacy in preventing further violence.
- In 2003, Criminal Justice Branch, Ministry of Attorney General, introduced changes to its pro-charge spousal assault policy. Instead of vigorous prosecution of these cases, Crown is given greater discretion to consider alternatives to prosecution. Victim safety may be seriously compromised by entering a stay of proceeding and/or the use of peace bonds in situations where insufficient information is available to adequately assess the level of risk caused to the victim by such action.
- Seven Canadian jurisdictions have civil domestic violence legislation allowing emergency protection orders to be issued quickly, with minimal court procedure. If such legislation is considered, BC should ensure sufficient resources for development and implementation, including training, public education, consultation, stakeholder relationships, coordination, monitoring and evaluation.

## THE CONTEXT

- In 1995, BC introduced the Protection Order Registry (POR), through which police and others have 24 hour access to information about existing protection orders and conditions. The POR also helps to keep victims informed about offender releases.
- Even before Crown's 2003 policy change, BC studies found that almost 50% of charges were stayed in domestic violence cases, which was inconsistent with Ministry policy. Twenty percent of these stays were in combination with a peace bond. (Plecas 2000, Police Services Division 1999).
- It is readily acknowledged that cases cannot proceed in the absence of evidence, but insufficient efforts have been made to enable "victimless prosecutions" or to take the measures required to effectively assist women with their participation in the justice system.
- Coordinated enforcement of protection orders has been hampered by staffing cuts at the community level, including closures of courts and probation offices.

## SUGGESTED ACTIONS

- The province should provide strong leadership and develop a coordinated, cross-sectoral strategy, involving the justice, health, social services and education systems, to ensure effective utilization and enforcement of justice and MCFD protection orders, including:
  - Proactive investigation and prosecution, with escalating consequences, for reported breaches
  - Inclusion of clearly worded enforcement clauses in all protection orders
  - Coordinated information-sharing about risk factors and protective conditions, and provision of information to victims
  - Clarification of roles and responsibilities of all those responsible for risk assessment, safety planning, enforcement of protection orders and documentation of breaches
  - Proactive referral of victims to Community-based Victim Services so they can assist with immediate safety planning
  - Direct victim services communication with police and Crown on victims' safety needs
  - Enhanced data collection about the number of orders issued, repetition of violence and enforcement of breaches, including effectiveness of dedicated police to enforce breaches
  - Consistent use of the POR, particularly by police, so they are aware of specific protective conditions and can enforce a breach
  - Coordination of civil and criminal orders to avoid conflicting requirements and address risk to women and their children
  - Ongoing case-conferencing among police, Crown, Corrections and victim support services to ensure adequate communication regarding risk and safety planning

- Encouragement of the private bar to include in their Code of Ethics clear guidelines or safeguards to help prevent situations in which domestic violence victims are contacted by defence counsel and inappropriately counselled to seek alternatives to prosecution
- Local protocols to guide a consistent, coordinated approach to risk assessment, safety planning and protection order enforcement
- Training and resources for justice and child protection personnel on coordinated risk assessment, safety planning and utilization and enforcement of protection orders, including dynamics and seriousness of domestic violence, women's reluctance to report, safety for children and enforcement issues related to specific types of orders
- Criminal Justice Branch should reinstate its strong pro-charge policy in domestic violence cases, to enable a proper and thorough assessment of the degree of risk facing a woman, before resort is made to pre-charge alternate measures, including peace bonds.
- Implement urban and rural pilots of coordinated responses to breaches of protection orders, based on current successful models, and monitor them with a view to assessing their applicability to other communities.
- If civil domestic violence legislation is being considered in BC, the following critical success factors should guide development and implementation:
  - Training prior to enactment
  - Community support to ensure a collaborative approach to development and implementation
  - Mechanisms and coordinating committees to ensure problems are addressed early
  - Close monitoring and evaluation, including tracking and vigorous enforcement of breaches
  - Public education to ensure victims and the community are aware of it
  - Process developed for application of the legislation on reserves, in consultation with aboriginal communities
  - Provision of adequate legal aid resources

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### References

Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation. 2003. *Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, Prepared for Federal-Provincial-Territorial Ministers Responsible for Justice*. Ottawa: Department of Justice Canada.

BC Institute Against Family Violence and Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General. Forthcoming. *Aid to Safety Assessment and Planning (ASAP)*. Vancouver, BC: Authors.

Community Coordination for Women's Safety. 2002. *Backgrounder: Issue: Effective Enforcement of Peace Bonds and Other Criminal Protection Orders*. Vancouver, BC: BC Association of Specialized Victim Assistance and Counselling Programs.

Community Coordination for Women's Safety. 2003. *Summary of Cross-Regional Discussions on Peace Bonds and Other Criminal and Civil Protection Orders*. Vancouver, BC: BC Association of Specialized Victim Assistance and Counselling Programs.

EKOS Research Associates Inc. 2000. *New Identities for Victims of Abuse: Client Survey Final Report*. Ottawa, ON: New Identities for Victims of Abuse, Human Resources Development Canada.

Plecas, D., T. Segger and L. Marsland. 2000. *Reticence and Re-Assault among Victims of Domestic Violence in Abbotsford, BC*. Victoria, BC: Ministry of Attorney General.

Police Services Division, Ministry of Attorney General, British Columbia. 1999. *Survey of Spousal Assaults Reported to Police in 1995 in British Columbia*. Victoria, BC: Authors.

Russell, Mary. *Measures of Empowerment for Women Who are Victims of Violence and Who Use the Justice System*. 2002. Victoria, BC: Victim Services Division, Ministry of Public Safety and Solicitor General.

Varcoe, Colleen, Fatima Jaffer and Pat Kelln. 2000. *Protecting Women? Women's Experiences of Seeking Protection From Abuse by Intimate Partners* (draft). Vancouver, BC: Health Research Foundation.